

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
MARITIME COMMUNICATIONS/LAND	)	WT Docket No. 13-85
MOBILE, LLC, DEBTOR-IN-POSSESSION)	
)	
Application to Assign Licenses to Choctaw	)	FCC File No. 0005552500
Holdings, LLC)	
)	
MARITIME COMMUNICATIONS/LAND)	
MOBILE, LLC)	
)	
Applications to Modify and to Partially	)	FCC File Nos. 0004153701 and
Assign License for Station WQGF318 to	)	0004144435
Southern California Regional Rail Authority)	
)	
Application for New Automated Maritime	)	FCC File No. 0002303355
Telecommunications System Stations)	
)	
Order to Show Cause, Hearing Designation	)	EB Docket No. 11-71
Order, and Notice of Opportunity for Hearing	)	File No. EB-09-IH-1751
	)	FCC File Nos. 0004030479, 0004144435,
	)	0004193028, 0004193328, 0004354053,
	)	0004309872, 0004310060, 0004314903,
	)	0004315013, 0004430505, 00044317199,
	)	0004419431, 0004422320, 0004422329,
	)	0004507921, 0004153701, 0004526264,
	)	0004636537, and 0004604962

**MOTION TO STRIKE AND/OR DISMISS AS DEFECTIVE
PETITONS FOR RECONSIDERATION OF FCC 16-172;
REQUEST FOR IMPOSITION OF SANCTIONS; AND
PETITION FOR EXPEDITED INVESTIGATION**

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SUMMARY

Maritime Communications/Land Mobile, LLC ("Maritime") hereby moves the Commission to strike and two petitions for reconsideration filed by Warren C. Havens and Polaris PNT PBC ("Havens"). Maritime also asks the Commission to expedite and complete an investigation based on an order of the Chief Administrative Law Judge certifying to the Commission for investigation numerous instances of Havens' blatant and contemptuous misconduct. In the interim, immediate and severe remedial sanctions should be imposed on Havens for repeated abuse of process and other violations.

Havens' petitions were untimely filed and should be summarily dismissed. For more than 14 years Havens has exhibited an inexcusable pattern of late filing of pleadings to obtain unfair procedural and substantive advantage. Havens far exceeded the applicable page limitations and had the temerity to attempt to direct how his pleadings should be handled.

Havens lacks standing to file his petitions in his own name. A mere shareholder in licensee entities which might have standing, he has no standing as an individual. Moreover, Havens has been enjoined by a California court from communicating with the Commission concerning the licenses at issue.

The Commission has called to Havens' attention its broad authority to deal with procedural abuses. The Commission should act immediately to sanction Havens' abuses in the instant matter. Havens has shown himself to be incorrigible. The Commission should use its authority to correct his contemptuous and wasteful behavior.

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PETITION FOR EXPEDITED INVESTIGATION**

Maritime Communications/Land Mobile, LLC – Debtor-in-Possession (“Maritime”)

hereby moves the Commission to strike and summarily dismiss as defective two petitions for reconsideration¹ of the *Order on Reconsideration and Memorandum Opinion and Order*, (FCC 16-172; released December 15, 2016) (“*Reconsideration Order*”), filed in the captioned matter

¹ The two pleadings are styled *Petition for Reconsideration of Warren Havens of FCC 16-172 Based on New Facts Submitted in Advance with Request to Accept* (“*Petition-1*”), and *Petition for Reconsideration of Warren Havens of FCC 16-172* (“*Petition-2*”).

on January 18, 2017, by Warren C. Havens and Polaris PNT PBC (“Havens”).² Further, Maritime petitions the Commission to expedite and complete an investigation pursuant to the April 22, 2015, referral order of the presiding judge in EB Docket No. 11-71.³ Maritime requests that, in the meantime, immediate and severe remedial sanctions be imposed on Havens for repeated abuse of process and other violations.

I. THE COMMISSION SHOULD EXPEDITE ACTION ON AN INVESTIGATION INTO THE CHARACTER QUALIFICATIONS OF WARREN HAVENS.

The reconsideration petitions represent only the most recent example of Havens’ flagrant procedural violations and abuse of process. This is serious and purposeful misconduct. It is not inadvertent and it not isolated to this case. Havens has been admonished many times about precisely this type of behavior, yet he continues to persist in unabashed abuse of the process. He is not ignorant of the requirements, he has been clearly told his conduct violates the requirements, he has repeatedly been directed to cease and desist, and yet at every opportunity he does the same thing again. This is a major financial and even emotional burden on those against whom Havens unleashes his abuses, and it is a major drain on public resources, interfering with the Commission’s capacity to discharge its public interest duties.

In the *ALJ Referral Order* the presiding judge in EB Docket No. 11-71 referred to the Commission for investigation numerous instances of blatant and contemptuous misconduct in that proceeding—behavior of the same ilk Havens exercises in virtually every proceeding in

² There is some ambiguity regarding the identity of the petitioner(s). At one point Havens states that both pleadings “are submitted by Havens individually, and not in the name of or for any other party or entity.” *Petition-2* at 2 n.1. Havens then contradicts this, stating: “This filing is also submitted by Havens for Polaris PNT PBC, a Delaware Public Benefit Corporation, controlled by Havens.”

³ *Memorandum Opinion and Order* (FCC 15M-14; rel. Apr. 22, 2015) (“*ALJ Referral Order*”).

which he is involved. The presiding judge found “that Mr. Havens and the Havens companies not only filed [a summary decision motion] in bad faith, but also engaged in patterns of egregious behavior that ... warrant a separate proceeding in which several issues as to the character qualifications of Mr. Havens and the Havens companies to hold Commission licenses are examined.”⁴ The Commission is respectfully urged to expedite its response to the *ALJ Referral Order*.⁵ But in the meantime, Havens should not be given free rein to continue his disruptive behavior. Accordingly, in Section VI, below, Maritime also requests immediate imposition of sanctions on Havens.

II. HAVENS FAILED TO MEET THE STATUTORY FILING DEADLINE FOR RECONSIDERATION PETITIONS.

The *Reconsideration Order* was released on December 15, 2016, making reconsideration petitions due on or before Tuesday, January 17, 2017.⁶ The Havens pleadings were not actually filed until January 18, 2017. The thirty day period for reconsideration petitions is a statutory deadline that is binding of the Commission.⁷ “[T]he filing requirement of Section 405(a) of the

⁴ *ALJ Referral Order* at ¶ 23.

⁵ In a separate pleading being filed concurrently herewith, Maritime also requests denial of renewal applications recently filed by several Havens entities, and further asks that all Commission authorizations held by Havens or affiliated entities be designated for license revocation proceedings.

⁶ Section 405(a) of the Communications Act provides in pertinent part: “A petition for reconsideration must be filed within thirty days from the date upon which public notice is given of the order, decision, report, or action complained of.” 47 U.S.C. § 405(a). The term public notice in this context means the release date of the challenged order. 47 C.F.R. § 1.4(b)(2). The thirtieth day thereafter was January 14, 2017, which fell on a Saturday. Pursuant to Section 1.4(j) of the Commission’s Rules, the filing deadline is moved to the next business day. 47 C.F.R. § 1.4(j). The Commission was closed on Monday, January 16, 2017, for observance of the Martin Luther King, Jr. holiday, which made the statutory deadline in this case Tuesday, January 17, 2017.

⁷ *E.g., Reuters Ltd. v. FCC*, 781 F.2d 946 (D.C. Cir. 1986).

Act applies even if the petition for reconsideration is filed only one day late.”⁸ Exceptions to this statutory mandate may be permitted only in “extremely unusual circumstances.”⁹

Havens acknowledges that he missed the filing deadline, claiming that he attempted to file the pleadings electronically on the evening of January 17, but was unable to do so due to technical problems with the ECFS.¹⁰ Even if this is true, waiting until shortly before the filing deadline and then encountering technical difficulties is not an “extremely unusual circumstance,” and in Havens’ case it is typical rather than unusual. The Commission has repeatedly admonished Havens that eleventh hour technical problems do not justify his failure to meet prescribed filing deadlines, especially not ones imposed by statute.

In *Star Wireless, LLC*¹¹ the Commission declined to accept an untimely pleading after Havens¹² waited until shortly before the midnight electronic filing deadline and then alleged that an unexpected ULS glitch prevented timely submission. In *CGG Veritas Land, Inc.*¹³ the Commission affirmed a delegated authority action dismissing as untimely a reconsideration petition filed electronically in the early hours of the morning following the due date, rejecting the excuse that timely submission was prevented by an internet service provider outage. In *Mobex Network Services, LLC*¹⁴ the Commission rejected a supplement to an application for review submitted the day after the filing deadline, instructing Havens that “[f]ilings are due on the day

⁸ *Startouch, Inc.*, 2014 FCC Lexis 3169 at ¶ 4 (DA 13-1391, WTB, rel. Oct. 3, 2014), *citing* *Panola Broadcasting Co.*, 68 FCC 2d 533 (1978); *Metromedia, Inc.*, 56 FCC 2d 909 (1975).

⁹ *Virgin Islands Telephone Corp. v FCC*, 989 F.2d 1231, 1237 (D.C. Cir. 1993).

¹⁰ *Petition-I* at 3-4.

¹¹ 28 FCC Rcd 243, 246-248 (WTB 2013).

¹² The designation “Havens” is used for simplicity. In each of these cases, the delinquent filer was Havens and/or entities controlled by Havens.

¹³ 26 FCC Rcd 2493, 2495 (2011),

¹⁴ 25 FCC Rcd 554, 557 (2010).

that they are due, not at some (unspecified) time the following day.” In *Warren C. Havens*¹⁵ the Commission held that an alleged technical problem that delayed electronic transmission of a pleading to Havens’ legal counsel did not justify submission one day past the deadline.

More than fourteen years ago the Commission explained to him that “electronic filers who wait until the last minute of the last day of the filing period to submit a pleading should not routinely expect a waiver.”¹⁶ This certainly does not constitute an “extremely unusual circumstance” warranting waiver of a statutory deadline. Indeed, as the Commission has expressly recognized: “Rather than being extremely unusual, this circumstance appears to be common for [Havens and his entities].”¹⁷

The precedent on which Havens relies is inapposite.¹⁸ *Graceba Total Communications v. FCC*¹⁹ did not involve a late-filed petition for reconsideration. In that case a timely filed reconsideration petition was supplemented to address a potentially relevant Supreme Court decision that had been issued *after* the reconsideration petition was filed. The supplement was “filed immediately after the Supreme Court” decision.²⁰ By contrast, Haven’s relies on arguments and information that were known to him *before* the applicable reconsideration deadline. Havens also misconstrues *Graceba* as negating the applicability of the thirty day limit simply because of vague assertions of constitutional harm. The *Graceba* opinion merely

¹⁵ 23 FCC Rcd 3210, 3212-3213 (2008).

¹⁶ *Regionet Wireless License, LLC*, 17 FCC Rcd 21263, 21265 (2002) (denying request to accept supplemental submission filed electronically after the applicable midnight filing deadline).

¹⁷ *Star Wireless, LLC*, 28 FCC Rcd at 288, *quoting CGG Veritas Land, Inc.*, 26 FCC Rcd at 2495-2496.

¹⁸ *Petition-I* at 6-7.

¹⁹ 115 F.3d 1038 (D.C. Cir. 1997).

²⁰ 115 F.3d at 1041.

confirmed the general principle that “administrative rules and regulations ... of continuing application” are always potentially subject to constitutional scrutiny.²¹ This does not preclude a time bar on assertions that a party’s constitutional rights were allegedly violated by an adjudicatory action in particular case. Suffice it to say that both the courts and the Commission have consistently recognized the very limited and narrow scope of the *Graceba* holding.²²

*Gardner v. FCC*²³ is equally unavailing. The Court there held that the FCC should have entertained an otherwise untimely reconsideration petition where the petitioning party (a) was entitled to notification of an adverse ruling, (b) was not given such notice and had neither actual nor constructive notice of the action at the time it was taken, and (c) acted with due diligence to submit a petition as soon as possible upon learning of the decision. By his own admission, Havens knew of the FCC action and knew the deadline with more than ample time to comply.²⁴

*Linda Crook*²⁵ is also distinguishable. The Review Board there permitted a late-filed reconsideration petition because it presented compelling evidence of possible misrepresentation and lack of candor that was not part of the record and had theretofore not been presented to the

²¹ 115 F.3d at 1040, quoting *Functional Music, Inc. v. FCC*, 274 F.2d 543, 546 (D.C. Cir. 1959).

²² E.g., *American Association of Paging Carriers v. FCC*, 442 F.3d 751, 755 n.11 (D.C. Cir. 2006); *Weblink Wireless, Inc.*, 16 FCC Rcd 9420, 9423 (WTB 2002), *on recon.*, 17 FCC Rcd 24642, 24648 ¶ 7 (WTB 2002).

²³ 530 F.2d 1086 (D.C. Cir. 1976).

²⁴ Havens’ complaints about lack of service and alleged *ex parte* violations are equally unfounded. E.g., *Petition-1* at 4-6. Insofar as WT Docket No. 13-85 is concerned, personal service is not required. In the public notice establishing the docket, *Public Notice* (DA 13-569; rel. March 8, 2013), the Commission stated: “Notwithstanding the restricted nature of this proceeding ..., pleadings and comments filed via the Commission’s Electronic Comment Filing System ... will not have to be served on the parties.” As to EB Docket No. 11-71 is concerned, Havens is no longer a party, having been removed by the presiding judge. *ALJ Referral Order*. Moreover, in both dockets, submissions are submitted via and/or posted to ECFS and are readily available to the public, including Havens.

²⁵ 3 FCC Rcd 1867 (Rev. Bd. 1988).

Commission. In this case Havens relies on material he has presented repeatedly in both the pre designation and post-designation phases of EB Docket No. 11-71 as well as WT Docket No. 13-85.²⁶ Havens had more than ample opportunity to present his reconsideration petitions in timely fashion.

III. THE TWO HAVENS PLEADINGS TOGETHER CONSTITUTE A SINGLE RECONSIDERATION PETITION SUBJECT TO ALL THE APPLICABLE PROCEDURAL REQUIREMENTS.

Havens frequently makes up his own self-serving procedural rules and then presumes to impose them upon the agency and the other parties, as if it were Warren C. Havens rather than the Commission that Congress vested with rulemaking authority. His submission of two separate but interrelated reconsideration petitions is yet another example. Havens states that *Petition-1* is based on “new facts” (a point refuted in this pleading), while *Petition-2* is based on “existing facts.” He then dictates that the Commission shall act on *Petition-1* first, and he “asserts and reserves the right to challenge [the *Reconsideration Order*] on existing facts after a decision on *Petition-1*.”²⁷ He maintains that “*Petition-2* is conditional and protective in nature and should not be due until after ... *Petition-1* is completed.”²⁸ He states that at some later point (after a ruling on *Petition-2*?) “Havens will amend *Petition-2* with relevant information.”²⁹

There is absolutely no regulation or precedent providing for such a bifurcated reconsideration procedure, and there is certainly no authority allowing a petitioner to unilaterally dictate the sequence in which the Commission may address issues or to reserve to itself the right

²⁶ Havens assertions regarding Maritime’s basic qualifications are irrelevant light of the grant of Second Thursday relief. *Warren C. Havens, Order* (DA 17-26; WTB, rel. Jan. 6, 2017) at ¶ 4.

²⁷ *Petition-2* at 2.

²⁸ *Petition-1* at 3.

²⁹ *Id.*

to amend or supplement reconsideration petitions at some unspecified future date. Havens is challenging the *Reconsideration Order*. Both pleadings are subject to the thirty day filing deadline prescribed by Section 405(a) of the Communications Act and the applicable procedural rules governing reconsideration petitions.

If, as discussed in Section I, above, the Commission lacks routine discretion to waive Section 405 “even if the petition for reconsideration is filed only one day late,”³⁰ it certainly precludes a party from unilaterally granting itself an extension to move the deadline to some indefinite future date. Section 1.106(f) of the Rules provides: “No supplement or addition to a petition for reconsideration ..., filed after expiration of the 30 day period, will be considered except upon leave granted upon a separate pleading for leave to file, which shall state the grounds therefor.”³¹

For the reasons already discussed, *Petition-1* and *Petition-2* must be viewed together as the sum total of Havens’ petition for reconsideration of the *Reconsideration Order*. Even if they had been timely submitted on or before the January 17 statutory deadline, any future amendment or supplement is expressly prohibited.

IV. HAVENS’ FILING EXCEEDS THE PAGE LIMIT ON PETITIONS FOR RECONSIDERATION.

In addition to being untimely, the Havens reconsideration request exceeds the applicable page limit. Section 1.106(f) of the Rules provides that a “petition for reconsideration shall not exceed 25 double spaced typewritten pages.”³² For the reasons stated in the preceding section of this pleading, *Petition-1* and *Petition-2* must be viewed as a single petition for reconsideration of

³⁰ *Startouch, Inc.*, 2014 FCC Lexis 3169 at ¶ 4 (DA 13-1391, WTB, rel. Oct. 3, 2014), *citing* *Panola Broadcasting Co.*, 68 FCC 2d 533 (1978); *Metromedia, Inc.*, 56 FCC 2d 909 (1975),

³¹ 47 C.F.R. § 1.106(f).

³² 47 C.F.R. § 1.106(f).

the *Reconsideration Order*. Taken together, the body of these pleadings include a total of 20 double spaced pages, excluding captions, signature blocks.³³ But Havens has added: (a) 3 single spaced pages as Appendix 1 to *Petition-1*; (b) 23 pages of single spaced tabulations including factual assertions and legal arguments as Appendix 1 to *Petition-2*; and (c) over 10 single spaced pages of legal and policy arguments as Appendix 2 to *Petition-2*. These appendices go well beyond allowances in Section 1.48(a) of the Rules which exclude from the page count “[a]ffidavits, statements, tables of contents and summaries of filings, and other material which are submitted with and factually support a pleading.”³⁴ Taken together, the Havens pleadings with the aforementioned appendices are roughly the equivalent of more than 90 double spaced pages—more than three and one half times the page limit.

The Commission has previously rejected attempts by Havens to circumvent the page limitation by attaching “exhibits ... which contain substantive arguments and commentary ... far exceed the limits set forth in section 1.106.”³⁵ The Commission has stated that “Havens' flagrant disregard for our page limits is unacceptable, especially taking into account the fact that Havens is a frequent participant in Commission proceedings and is very familiar with the Commission's rules.”³⁶ Havens' failure to conform to the page limits and other procedural requirements is more than merely a procedural violation—it is a flagrant abuse of process that he stubbornly repeats despite numerous reprimands. It must not be further countenanced.

³³ See pages 2-8 of *Petition-1* and pages 2-4 & 8-18 of *Petition-2*. This count excludes the single spaced content of pages 5-8 that Havens characterizes as a “Table of Contents,” but which arguably crosses the line into substantive presentation.

³⁴ 47 C.F.R. § 1.48(a).

³⁵ *Warren C. Havens*, 29 FCC Rcd 1019, 1027 (WTB 2014).

³⁶ *Skybridge Spectrum Foundation*, 28 FCC Rcd 13539, 13543 (2013).

V. HAVENS AS AN INDIVIDUAL LACKS STANDING.

Although Havens has heretofore participated in WT Docket No. 13-85 and EB Docket No. 11-71, he does not directly hold any authorization at issue in or potentially affected by these proceedings. His interest is indirect and derives solely from the fact that he owns and controls various AMTS licensee entities that were also parties. Havens thus lacks standing in his individual capacity. A corporate shareholder lacks standing to institute legal action in his own name to vindicate rights of the corporate entity.³⁷ A limited liability company is subject to the same rubrics, because like a corporation, is an entity legally distinct from its members.³⁸ The owner must accept the burdens of this separation between the company's rights and his own, just as he reaps its benefits.³⁹

In connection with civil litigation in the Superior Court of California, Alameda County, the Havens AMTS licensee entities were placed into receivership.⁴⁰ An order entered by the court provides, *inter alia*, that Warren C. Havens is enjoined from interfering in any way with the assignment of the licenses to the receiver, the substitution of the receiver as the individual responsible for the license and the licensee entities, or communicating with the FCC regarding

³⁷ See *American Airways Charters, Inc. v. Regan*, 746 F.2d 865, 873 n.14 (D.C. Cir. 1984) (“No shareholder—not even a sole shareholder—has standing in the usual case to bring suit in his individual capacity on a claim that belongs to the corporation.”); see also Blumberg, *et al.*, 5 BLUMBERG ON CORPORATE GROUPS § 167.03 at 21 (2d ed. 2015) (“[I]t is hornbook law that in the absence of express statutory authorization, a shareholder has no standing to bring an action in its own name and on its own behalf for an injury sustained by the corporation.”); William Meade Fletcher, 12B FLETCHER CYCLOPEDIA OF THE LAW OF CORPORATIONS § 5910 at 502-04 (2009) (“The fact that a shareholder owns all, or practically all, or a majority of the stock does not of itself authorize the shareholder to sue as an individual.”).

³⁸ See, e.g., *Weddell v. H2O, Inc.*, 271 P.3d 743, 748 (Nev. 2012) (“Limited liability companies (LLCs) are business entities created to provide a corporate-styled liability shield”).

³⁹ Cf. *Williams v. Mordkofsky*, 901 F.2d 158, 164 (D.C. Cir. 1990).

⁴⁰ *Arnold Leong v. Warren Havens, et al.*, Order Appointing Receiver After Hearing and Preliminary Injunction (Case No. 2002-070640; Aug. 16, 2015).

the same.⁴¹ Of particular importance here, the court's order also bars Havens from "[c]ommencing, prosecuting, continuing to enforce, or enforcing any suit or proceeding in the name of the [entities] or otherwise acting on behalf of the [entities]."⁴² Accordingly, Havens as an individual has no standing in this matter.⁴³

VI. SANCTIONS SHOULD BE LEVIED AGAINST HAVENS FOR HIS HISTORY OF EGREGIOUS AND REPEATED VIOLATIONS AND ABUSE OF PROCESS.

Section 1.106(p) of the Commission's Rules authorizes the staff to dismiss or deny a petition for reconsideration of a Commission action that "plainly does not warrant consideration by the Commission,"⁴⁴ for example, when the petition for reconsideration relies on arguments that have been fully considered and rejected by the Commission within the same proceeding or raises arguments that could have been raised earlier in the proceeding but were not. *Petition-1* is based on information not only known to Havens well in advance of the filing deadline, but information which he has presented and argued in numerous other proceedings. *Petition-2* is merely a rehash of Havens' previously presented arguments on Second Thursday. To the extent there is anything at all "new," there is certainly nothing Havens could not have presented earlier.

⁴¹ *Id.*

⁴² *Id.*

⁴³ A search of ULS records does not indicate that Polaris PNT, PBC (joint filer with Havens in this matter) holds any FCC licenses, much less any that would be affected by actions in this matter. Moreover, any reconsideration petition by this entity is barred by Section 1.106(b)(1) of the Rules, which provides: "If the petition is filed by a person who is not a party to the proceeding, it shall state with particularity the manner in which the person's interests are adversely affected by the action taken, and shall show good reason why it was not possible for him to participate in the earlier stages of the proceeding." 47 C.F.R. §1.106(b)(1). Moreover, there is no showing at all that the entity has standing.

⁴⁴ *Warren C. Havens*, 27 FCC Rcd 2756, 2759 (2012), ("*Havens Sanction Order*"). It is noted that Havens has even been sanctioned by a federal court for similar disruptive and contemptuous behavior. See *Telesaurus-VPC, LLC v. Power*, 888 F. Supp. 2d 963, 974 (D. Ariz. 2012), quoting FED. R. CIV. P. 11(b), (b)(3), *aff'd*, 584 Fed. Appx. 905 (9th Cir. 2014).

In the *Havens Sanction Order*, however, the Commission held that dismissal or denial of an inappropriate reconsideration petition is not the sole remedy available to the Commission in such cases, specifically noting “the Commission's authority to sanction parties who submit frivolous filings.”⁴⁵ Havens was thus sanctioned for presenting repetitive petitions for reconsideration and rearguing positions that had been repeatedly rejected by the Commission.⁴⁶

But the Commission was measured in its response to Havens:

Under these circumstances, we believe the broad discretion we have under the Communications Act to manage the agency's docket would enable us to bar Havens from filing any future pleadings as to the Applications. Nevertheless, we take a narrower approach to the sanction in this case, allowing Havens an opportunity to make a showing that such future filing should be permitted.⁴⁷

The Commission’s leniency has been met with continued abuse by Havens. In this matter he has not only started down the same path (repetitive pleadings) that led to his previous sanctions, but has unleashed an entire arsenal of abusive and disruptive tactics, as discussed in the preceding sections of this pleading. And it is not just this proceeding. The Commission and its Bureaus are littered with frivolous Havens petitions, untimely filings, petitions that ignore or blatantly defy procedural requirements, all with the effect of disrupting order conduct of business by the Commission and placing unwarranted additional burdens on the other parties. Only days ago, the Commission rejected several of Havens’ pleadings because the “arguments are mostly frivolous, have in many cases already been rejected in other proceedings, and are otherwise unpersuasive.”⁴⁸ The Commission went on to state “we find the petitions plainly do not warrant

⁴⁵ *Warren C. Havens*, 27 FCC Rcd 2756, 2759 (2012), (“*Havens Sanction Order*”).

⁴⁶ 27 FCC Rcd at 2060.

⁴⁷ *Id.*

⁴⁸ *Warren C. Havens, Order* (DA 17-26; WTB, rel. Jan. 6, 2017) at ¶ 5.

consideration by the Commission, and we accordingly deny them under authority of Section 1.106(p) of the Rules.”⁴⁹


“An agency is not powerless to prevent an abuse of its processes” and it “need [not] allow the administrative process to be obstructed or overwhelmed by captious or purely obstructive protests.”⁵⁰ The Commission should exercise this power and prohibit the continued abuse of the system by Havens. Havens must be held to a proper standard of conduct as it pertains to filing pleadings at the Commission or he should be denied the right to participate in the Commission’s proceedings. It is no longer adequate to reprimand or admonish him for violations—that has proven demonstrably ineffective. Havens is, in a word, incorrigible. The Commission should take swift and decisive action to protect the integrity of its process. Sanctions should include barring him from filing *any* pleading, brief, letter, request, etc., in *any* proceeding, without first requesting from the Commission—in advance of any applicable filing deadline—leave to do so. He should be directed to await a ruling on such request for leave *before* making the submission. Any filing made in violation of this procedure, or any filing made after having secured leave that fails to satisfy basic procedural requirements such as timeliness, page limits, etc., should be summarily dismissed without consideration. The Commission should also seriously consider the imposition of monetary forfeitures. Finally, and most important, the Commission should expedite its investigation pursuant to the *ALJ Referral Order* and initiate appropriate enforcement proceedings, as discussed in Section I, above.

⁴⁹ *Id.* at n.10.

⁵⁰ *Radio Carrollton*, 69 FCC 2d 1138, 1150 (D.C. Cir. 1978) (*quoting United Church of Christ v. FCC*, 359 F 2d 994, 1005 (D.C. Cir. 1966) (brackets in original)).

WHEREFORE, it is requested that *Petition-1* and *Petition-2* be stricken or summarily dismissed; that sanctions be imposed on Havens; and that the Commission expedite the investigation under the *ALJ Referral Order* and initiate appropriate enforcement proceedings against Havens and his affiliated licensee entities.

Respectfully submitted,

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Dated: February 2, 2017

Note Regarding Service

In the *Public Notice* (DA 13-569; rel. March 8, 2013) establishing WT Docket No.13-85, the Commission stated: “Notwithstanding the restricted nature of this proceeding ..., pleadings and comments filed via the Commission’s Electronic Comment Filing System ... will not have to be served on the parties.” Accordingly, Maritime is not serving copies of this pleading via regular mail, although *courtesy* electronic copies may be provided via email.